

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

S3 02 Crim. 1141 (LAK)

JEFFREY OTIS REDDEN,

Defendant.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

On April 6, 2020, the Court docketed a letter from defendant Jeffrey Otis Redden [Dkt. 125]. The letter informed the Court of Redden's intention to file a Section 2255 motion based on *United States v. Davis*, 139 S. Ct. 2319 (2019), and *Rehaif v. United States*, 139 S. Ct. 2191 (2019). According to the letter, Redden was concerned that he would be unable to meet a purported filing deadline because his prison was locked down due to the COVID-19 pandemic. He asked whether "the government [will] be suspending or extending the time periods . . . and[, if so,] when and how [he will] be notified." The Court construes this letter as a motion for an extension of time to file a habeas petition under 28 U.S.C. § 2255.

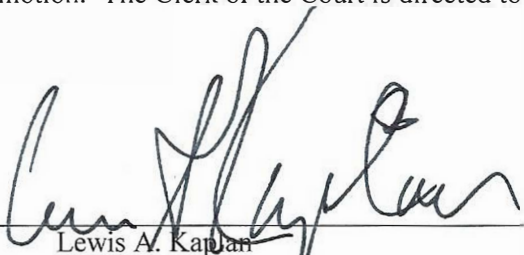
"[A] district court may grant an extension of time to file a motion pursuant to section 2255 only if (1) the moving party requests the extension *upon or after filing an actual section 2255 motion*, and (2) 'rare and exceptional' circumstances warrant equitably tolling the limitations period."¹ "[A] petitioner is entitled to equitable tolling only if he shows (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing."²

Because Redden has not filed an actual Section 2255 motion, the Court is unable to grant his motion for an extension of time at present. However, if at some point in the future Redden files an untimely Section 2255 motion, he may argue at that time that he is entitled to equitable tolling.

The motion for an extension of time [Dkt. 125] is denied without prejudice to a renewed motion for an extension of time accompanying a Section 2255 motion. The Clerk of the Court is directed to mail a copy of this order to Mr. Redden.

SO ORDERED.

Dated: July 21, 2020



Lewis A. Kaplan
United States District Judge

¹

Green v. United States, 260 F.3d 78, 82–83 (2d Cir. 2001) (emphasis added).

²

Holland v. Florida, 560 U.S. 631, 649 (2010).